IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Contempt Petition No. 402 of 2005

Virendra Prasad Shah S/o late Sri Sundra Lal Shah
R/o Village Kotabag, District Nainital
…… Petitioner

Versus.

Mr. Lal Rin Laina Fenai,
Additional Secretary /
Director, Arth and Sankhya, an establishment
of Planning Department, Uttaranchal, Dehradun.
…… Respondent

Mr. C.D. Bahuguna, learned counsel for the petitioner.
Mr. N.B. Tiwari, learned Chief Standing Counsel for respondent.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the petitioner and learned Chief Standing Counsel for the State.

2) This Contempt Petition is filed complaining the disobedience of the order dated 22nd July, 2005, passed in Writ Petition No. 23 (S/B) of 2003, whereby the reversion order passed against the petitioner has been quashed. There is no order of consequential benefits is said order.

3) Counter affidavit filed by respondent, Mr. L.R.L. Fenai, Additional Secretary / Director, Arth and Sankhya, an establishment of Planning Department, Uttaranchal, shows that the aforesaid order of this Court has been complied with and the petitioner has been reinstated as Senior Assistant in the office of Joint Director, Earth Evan Sankhya, Garhwal Mandal, Pauri.

4) Learned counsel for the petitioner filed photostat copy of order dated 22.12.2005, passed in modification application No. 12211 of 2005 in aforesaid writ petition. By said order

consequential benefit have been granted to the petitioner. Learned counsel for the petitioner, in this connection, contended that since consequential benefits are yet to be paid by the respondent, as such, the contempt petition cannot be dismissed on the basis of the averments made in the counter affidavit that the petitioner has been reinstated.

5) In the opinion of this Court, this contempt petition was filed on 19th December, 2005 while the order on the modification application was passed on 22.12.2005 i.e. three days after filing of this petition. As such, this Court is unable to take cognizance of contempt of the subsequent order in this contempt petition. In the circumstances, the contempt petition is liable to be dismissed, in view of the compliance made by the respondent.

6) Accordingly, the contempt petition is dismissed and notices issued as against the respondent are discharged, with the observation that if the subsequent order is not complied with, the petitioner will be at liberty to move fresh contempt petition complaining wilful disobedience thereof.

(Prafulla C. Pant, J.)

Dt.: February 24, 2006
H.Negi